



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	06/29/02	Bill No:	AB 3000
Tax:	Cigarette and Tobacco Products and Energy Resources Surcharge	Author:	Assembly Committee on Budget
Board Position:		Related Bills:	AB 3009 (Assembly Budget Committee)
BOE exempt position - Support			SB 1843 (Senate Budget and Fiscal Review Committee)
Energy resources surcharge - Neutral			SB 1849 (Senate Budget and Fiscal Review Committee)
Cigarette indicia - Support			

BILL SUMMARY

This is a budget trailer bill implementing various provisions incorporated into the 2002-03 Budget. Among other things, this bill would do the following:

- Authorize each Board Member to request that the Governor convert one civil service position of the Board to an exempt civil service position to serve as an administrative assistant at or below a specified nonsupervisory exempt salary level, who shall be appointed by and serve at the pleasure of the Governor.
- Define "stamps and meter impressions" to mean the indicia of payment of tax, as required, and include, but are not limited to, stamps, meter impressions, or any other indicia developed using current technology.
- Increase the "cap" on the energy resources surcharge imposed on the consumption in this state of electrical energy purchased from an electric utility, on and after January 1, 2003, from two-tenths (\$0.0002) of a mill to three-tenths (\$0.0003) of a mill.

ANALYSIS

Exempt Administrative Assistant (Section 22)

Current Law

Article VII, Section 4 of the California Constitution sets forth various categories of exempt civil service positions, such as officers and employees appointed or employed by the Legislature or legislative committees, and officers elected by the people and a deputy and an employee selected by each elected officer. Consistent with this provision, as elected officers, Members of the Board of Equalization are authorized to appoint or employ one deputy and one employee in exempt civil service positions.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Proposed Law

This provision, which is contained in Section 22 of the bill, would add Section 15605.5 to the Government Code to provide that, notwithstanding any other law, but consistent with the California Constitution, each member of the State Board of Equalization elected by district may request that the Governor convert one civil service position of the board to be exempt from civil service and serve as an administrative assistant at or below the nonsupervisory exempt salary level P2A, who shall be appointed by, and shall serve at, the pleasure of the Governor.

In General

Exempt civil service positions that do not fall under the category of appointed State officer fall under the salary approval authority of the Department of Personnel Administration (DPA). For these employees, DPA establishes the salary range for each position and determines any annual increase. Most of these positions are managerial and normally receive the same increase provided civil service managerial employees. There are some clerical and administrative positions and these usually receive the same increase as designated confidential civil service employees.

COMMENTS

1. **Sponsor and purpose.** According to a consultant to the Assembly Budget Committee, this provision has no specific sponsor. Its purpose is to provide each Member of the Board an opportunity to acquire one additional exempt position to serve at the Member's pleasure. According to a consultant to the Senate Budget and Fiscal Review Committee, there was a drafting error in the language. The language should have provided that the exempt positions would be appointed by the Board Member whom they serve, rather than the Governor. Senator Peace will apparently seek legislation to correct this error in August.

COST ESTIMATE

According to DPA, the monthly salary range for a nonsupervisory exempt position at a salary level P2A would amount to \$5,038 – 5,189.

REVENUE ESTIMATE

This provision would not affect the state's revenues.

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ANALYSIS**Cigarette and Tobacco Products Tax (Section 54)****Current Law**

Revenue and Taxation Code Section 30161 (Cigarette and Tobacco Products Tax Law) generally provides that the cigarette tax imposed with respect to the distribution of cigarettes shall be paid by distributors through the use of stamps or meter impressions. Stamps and meter impressions, pursuant to Section 30162, shall be of such designs, specifications and denominations as may be prescribed by the Board. The term "stamps and meter impressions" is not defined under current law.

Proposed Law

Among other things, this bill would add Section 30018 to the Revenue and Taxation Code to define "stamps and meter impressions" to mean the indicia of payment of tax, as required by Section 30161, and include, but are not limited to, stamps, meter impressions, or any other indicia developed using current technology. The Board would be required to prescribe and approve the types of stamps and meter impressions, and the methods of applying stamps and meter impressions to packages of cigarettes.

COMMENTS

1. **Sponsor and purpose.** According to a consultant to the Assembly Budget Committee, this provision has no specific sponsor. This bill is intended to clarify that a stamp or meter impression can include basically any type of stamp or meter impression approved by the Board that may be available utilizing current technology.
2. **Provisions would not be problematic to administer.** This measure simply clarifies that a stamp or meter impression can include any type of stamps or meter impressions, including those generated by a technology capable of being read by a scanning or similar device. Enactment of these provisions would not materially affect the Board's administration of the cigarette and tobacco products tax law.
3. **Related legislation.** This bill contains identical language as SB 1843 (Senate Budget and Fiscal Review Committee).

COST ESTIMATE

Enactment of this provision would not have any impact on the Board's administrative costs.

REVENUE ESTIMATE

This provision would not affect the state's revenues.

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ANALYSIS**Energy Resources Surcharge (Section 55)****Current Law**

Under current law, the energy resources surcharge is imposed on the consumption in this state of electrical energy purchased from an electric utility. The surcharge rate is currently fixed at two-tenths mill (\$0.0002) per kilowatt-hour.

The energy resources surcharge is collected by the Board and transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Energy Resources Surcharge Fund, which, after refunds, is deposited to the Energy Resources Program Account.

Section 40182 of the Energy Resources Surcharge Law provides that it is the intent of the Legislature that the funds in the Energy Resources Programs Account be used for ongoing energy programs and energy projects deemed appropriate by the Legislature, including, but not limited to, the activities of the State Energy Resources Conservation and Development Commission.

Proposed Law

Among other things, this bill would provide that the energy resources surcharge rate would be fixed by the Energy Commission at a public meeting in each November for each calendar year starting the following January. The maximum rate would be three-tenths mill (\$0.0003) per kilowatt-hour of electricity sold by an electric utility. If the commission fails to fix the rate in any November, the surcharge would continue at the rate in effect during that November.

Background

In 1974, AB 1575 (Chapter 276) established a surcharge of one-tenth of a mill (\$0.0001) per kilowatt-hour of electric power sold to consumers, or at a rate fixed on a periodic basis by the Board within prescribed limits. AB 2077 (Chapter 991, Statutes of 1974) changed the surcharge rate schedule and revised provisions for the administration and collection of the surcharge on electricity established by AB 1575.

In 1982, SB 1399 (Chapter 1067) repealed as of July 1, 1983, the provisions relating to the Board's periodic establishment of the rate. In addition, that bill established a fixed surcharge rate, on and after July 1, 1983, as the rate fixed by the Board which was in effect on that date (two-tenths of a mill (\$0.0002)).

COMMENTS

1. **Sponsor and purpose.** According to a consultant to the Assembly Budget Committee, this provision has no specific sponsor. This bill is intended to establish an energy resources surcharge rate that would cover all costs associated with the California Energy Commission's Energy Facilities Licensing Program (referred to as the siting program) on an ongoing basis.

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The Legislative Analyst's Office recommended this proposal because they believe that the ratepayers--as opposed to general taxpayers--should support the siting program since they are the entities that directly benefit from the services provided by the siting program.

2. **Provisions would not be problematic to administer.** Enactment of the provisions relating to the energy surcharge rate would not materially affect the Board's administration of the energy resources surcharge law.
3. **Funding for energy programs would be increased.** The energy resources surcharge is collected by the Board and transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Energy Resources Surcharge Fund, which, after refunds, is deposited to the Energy Resources Program Account. The revenue deposited to the Energy Resources Program Account is used to pay for ongoing energy programs and energy projects deemed appropriate by the Legislature.
4. **Related legislation.** This bill contains identical energy resources surcharge rate increase language as AB 3009 (Assembly Budget Committee) and SB 1849 (Senate Budget and Fiscal Review Committee).

COST ESTIMATE

The Board would incur absorbable costs related to this provision for notifying electric utilities, revising returns, and computer reprogramming.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

The Energy Surcharge Law (Section 40016 of the Revenue and Taxation Code) imposes a surcharge on the consumption of electrical energy purchased from an electric utility at a fixed rate of \$0.0002 per kilowatt-hour as specified by the Board of Equalization. This bill proposes an increase in that rate not to exceed \$0.0003, per kilowatt-hour, as fixed by the Energy Commission in a public meeting each November to be effective each calendar year starting the following January.

The chart below represents a comparison of energy surcharge revenue using the current rate and the proposed rate increase from fiscal years 1996-97 through 2000-01.

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Fiscal Year	Total Energy Surcharge Revenue	
	Current Rate per KWh \$0.0002	Proposed Rate per KWh \$0.0003
1996-97	\$ 42,542,000	\$ 63,813,000
1997-98	41,454,000	62,181,000
1998-99	43,191,000	64,786,500
1999-00	45,539,000	68,308,500
2000-01	47,931,000	71,896,500
5 year Average	\$ 44,131,400	\$ 66,197,100

Revenue Summary

As indicated by the chart above, an increase in the energy surcharge on the consumption of electrical energy from \$0.0002 per kilowatt-hour to \$0.0003 per kilowatt-hour will increase energy surcharge revenue by an average of \$22 million each fiscal year (\$66,197,100 - \$44,131,400).

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